

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 343                      Services for Seniors  
**SPONSOR(S):** Sobel and others  
**TIED BILLS:**                              **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Elder &amp; Long-Term Care Committee</u>	<u>4 Y, 2 N</u>	<u>DePalma</u>	<u>Walsh</u>
2) <u>Local Government Council</u>	<u></u>	<u>Smith</u>	<u>Hamby</u>
3) <u>Finance &amp; Tax Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Health &amp; Families Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

HB 343 permits each county, by ordinance, to create an independent special district to fund services for seniors throughout the county (the district). The boundaries of the district must be the same as the boundaries of the county.

The county must obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes that may not exceed 0.5 mills of assessed valuation of all properties within the county which are subject to ad valorem county taxes. The referendum required to approve the ad valorem tax levy must be held at the first general election immediately following adoption of the ordinance creating the independent special district.

The bill provides for the districts to be governed by a senior council consisting of 11 members: the executive director of the area agency on aging; the county director of human services; one member of the board of county commissioners for a 2-year term; two nonvoting members of the legislative delegation for the county appointed by the delegation chair for a 2-year term; two representatives of the Florida League of Cities for a 2-year term; and four members appointed by the Governor for a 4-year term, initially staggered, with reappointment for one additional term permitted, and who meet certain additional qualifications.

The bill sets forth permissive powers, duties, and the financing and budgeting requirements of these districts.

The bill allows for cooperative agreements between districts.

The bill provides for dissolution of these districts.

The bill provides that these districts must comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports.

The Revenue Estimating Conference determined that a similar bill filed in the 2005 Legislative session had an indeterminate fiscal impact on local government revenues.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** – The bill provides for an additional general law which permits the creation of an independent special district other than by the Legislature. The bill permits each county, by ordinance, to create such a district to provide funding for services for seniors throughout the county.

**Ensure lower taxes** -- The bill provides that a county, upon creation by ordinance of the independent special district, must obtain approval at the next general election, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes that may not exceed 0.5 mills of assessed valuation of all properties within the county which are subject to ad valorem county taxes.

**Empower families** -- The bill permits the district senior councils to provide and maintain in the county preventive, developmental, treatment, rehabilitative and any other services deemed necessary for the general welfare of the county's seniors. In addition, the senior councils may consult and coordinate with other agencies serving seniors to prevent an overlap of services.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

##### Defining Special Districts

A special district is a local unit of *special purpose government* whose special purpose or purposes are implemented by specialized functions and related prescribed powers within a limited boundary.<sup>1</sup> An independent special district is one which does not have any of the following:

- membership of its governing body that is identical to that of the governing body of a single county or a single municipality;
- all members of its governing body that are appointed by the governing body of a single county or a single municipality;
- members of its governing body that are subject to removal at will by the governing body of a single county or a single municipality during their unexpired terms; or
- a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.<sup>2</sup>

An independent special district must comply with the creation, dissolution, and reporting requirements set forth in ch. 189, F.S.<sup>3</sup> An independent special district, except for a community development district, is also required to have a charter that meets certain minimum requirements.<sup>4</sup>

##### Restrictions on Creation of Independent Special Districts

Only the Legislature may create *independent* special districts, except as otherwise authorized by general law.<sup>5</sup> The exceptions currently authorized by general law include:

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<sup>1</sup> Section 189.403(1), F.S. (also exempting from the definition of special district: school districts, community college districts, special improvement districts, municipal service taxing or benefit units, or boards which provide electrical service and which are a political subdivision of a municipality or are part of a municipality.

<sup>2</sup> Section 189.403(3), F.S.

<sup>3</sup> Section 189.4031(1), F.S.

<sup>4</sup> Sections 189.4031(2) and 189.404(3), F.S.

<sup>5</sup> Section 189.404(4), F.S.

- Municipalities, counties, or the Governor and Cabinet may create community development districts as provided by law.<sup>6</sup>
- Counties may create independent special districts for children's services,<sup>7</sup> county health and mental health care<sup>8</sup>, or hospitals<sup>9</sup> by adopting the required charter.
- Any combination of two or more counties, municipalities, or the Governor and Cabinet may create a regional water supply authority.<sup>10</sup>
- Any combination of two or more counties may create a regional special district to provide for regional jails.<sup>11</sup>
- Any combination of two or more counties, municipalities, or other political subdivisions may create a regional special district to act as a regional transportation authority.<sup>12</sup>

## **Effect of Proposed Changes**

### Creation of Independent Special District by County Ordinance

HB 343 provides for an additional general law which permits the creation of an independent special district other than by the Legislature. The bill creates s. 125.903, F.S., to permit each county, by ordinance, to create an independent special district to provide funding for services for seniors. Seniors are defined as a "person who is at least 60 years of age."<sup>13</sup> The boundaries of such a district must be coterminous with the boundaries of the county.

The county must obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes that may not exceed 0.5 mills of assessed valuation of all properties within the county which are subject to ad valorem county taxes. The referendum required to approve the ad valorem tax levy must be held at the next general election, i.e., the general election immediately subsequent to the adoption of the ordinance creating the independent special district.

The bill provides the legislative intent that funds collected through the creation of a district are used to support improvements in services for seniors, and that such funds are not used as a substitute for existing resources, or for resources that would otherwise be available for those services.

### District Governing Board

The governing board of each district is a senior council, which must consist of 11 members:

- the executive director of the area agency on aging, or his or her designee who is a director of senior programs, as a permanent position;
- the county director of human services or his or her designee who is a director of elderly services, as a permanent position;
- one member of the board of county commissioners for a 2-year term;
- two nonvoting members of the legislative delegation for the county appointed by the delegation chair for a 2-year term;
- two representatives of the Florida League of Cities for a 2-year term; and
- four members appointed by the Governor for 4-year terms, initially staggered, with reappointment for one additional term permitted, and meeting these additional qualifications -
  - these members must, to the greatest extent possible, represent the cultural diversity of the county's population;

<sup>6</sup> Section 190.005, F.S.

<sup>7</sup> Section 125.901, F.S. *et seq.*

<sup>8</sup> Section 154.331, F.S.

<sup>9</sup> See ch. 155, F.S.

<sup>10</sup> Section 373.1962, F.S.

<sup>11</sup> Section 950.001, F.S.

<sup>12</sup> Section 163.567, F.S.

<sup>13</sup> "Senior" means a person who is at least 60 years of age. HB 343 at lines 83-84.

- one of these members must be 60 years of age or older and a caretaker for an elderly person;
- these members must have been residents of the county for the previous 24-month period; and
- the county must recommend three names for each vacancy, determined by category, and the Governor must make a selection within a 45-day period or request a new list of candidates.

The Governor may remove a member for cause or upon the written petition of the county governing body. If any of the members of the senior council required to be appointed by the Governor resign, die, or are removed from office, the vacancy is filled by appointment by the Governor, using the same method as the original appointment, and such appointment to fill a vacancy shall be for the unexpired term of the person who resigns, dies, or is removed from office.

Members of the senior council shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses consistent with s. 112.061, F.S.

### District Permissive Powers

The district senior council is given a number of permissive powers:

1. to provide and maintain in the county such preventive, treatment, and rehabilitative services for seniors as the senior council determines are needed for their general welfare;
2. to provide any other services as the senior council determines are needed for the general welfare of the county's seniors;
3. to allocate and provide funds for other agencies in the county which are operated for the benefit of seniors;
4. to collect information and statistical data and conduct research that will be helpful to the senior council and the county in deciding the needs of the county's seniors;
5. to consult and coordinate with other agencies serving seniors to prevent an overlap of services;
6. to lease or buy real estate, equipment, and personal property and construct buildings as needed to execute district powers and functions. Such purchases must be paid for with cash on hand or secured by funds deposited in financial institutions; no authority to issue bonds is granted; and
7. to employ, pay, and provide benefits for required district personnel.

### District Duties

The district senior council is also charged with a number of duties, including:

1. election of a chair and a vice chair from among its members, and election of other officers as deemed necessary by the senior council;
2. identification and assessment of the needs of the county's seniors and submission to the county governing body of a written report describing:
  - the activities, services, and opportunities that will be provided to seniors;
  - the anticipated schedule for providing those activities, services, and opportunities;
  - the manner in which seniors will be served, including a description of arrangements and agreements which will be made with community organizations, state and local educational agencies, federal agencies, public assistance agencies, the court system, guardianship groups, and other applicable public and private agencies and organizations;
  - the special outreach efforts that will be undertaken to provide services to at-risk, abused, or neglected and ailing seniors;
  - the manner in which the senior council will seek and provide funding for unmet needs; and
  - the strategy that will be used for interagency coordination to maximize existing human and fiscal resources;

3. providing training and orientation to all new senior council members;
4. creation and adoption of bylaws and rules, not inconsistent with federal or state laws or county ordinances, for the senior council's operation; and
5. providing an annual written report, due January 1 of each year, to the county's governing body, which includes:
  - information on the effectiveness of activities, services, and programs offered by the senior council, including cost-effectiveness;
  - a detailed anticipated continuation budget and a list of all sources of requested funding, both public and private;
  - procedures used for early identification of at-risk seniors who need additional or continued services and methods for ensuring receipt of those services;
  - a description of the degree to which the senior council's objectives and activities are consistent with the goals of this section;
  - detailed information on the various programs, services, and activities available to, and the degree to which they have been successfully used by, seniors; and
  - information on those programs, services, and activities that should be eliminated, those which should be continued, and those that should be added to the basic format of the senior council.

Additionally, the senior council must also maintain minutes of each meeting, including a record of all votes cast, and make them available to any interested person.

#### District Financing and Budgeting

The bill also provides a number of financial and budgeting parameters for the districts:

- The fiscal year of the district is the same as that of the county.
- The senior council must prepare a tentative annual written budget of the district's expected income and expenditures, including a contingency fund.
- The senior council must also compute a proposed millage rate sufficient to fund the tentative budget and comply with the provisions of s. 200.065, F.S., relating to the method of fixing millage, and fix the final millage rate by resolution of the senior council prior to adopting a final budget.
- The adopted budget and final millage rate are then certified and delivered to the governing body of the county as soon as possible following adoption. The millage rate necessary to be applied to raise the funds budgeted for district operations and expenditures, once adopted by resolution of the senior council, must be included in each certified budget.
- The millage rate may not exceed 0.5 mills of assessed valuation of all properties subject to ad valorem county taxes within the county.
- After the district budget is certified and delivered to the county's governing body, it may not be changed or modified by the county's governing body or any other authority.
- All taxes collected under this section shall be paid directly to the senior council by the county tax collector or clerk of the circuit court, as appropriate.
- All moneys received by the senior council must be deposited in qualified public depositories, as defined in section 280.02, F.S., with separate and distinguishable accounts established specifically for the senior council. These funds may only be withdrawn by checks signed by the council chair and countersigned by one other member of the senior council or by a chief executive officer authorized by the senior council.
- The chair and the other member of the senior council or chief executive officer who signs its checks must each give a surety bond in the sum of at least \$1,000 for each \$1 million or portion thereof of the senior council's annual budget, which bond shall be conditioned on each faithfully discharging the duties of his or her office. The premium on such bond may be paid by the district as part of the expense of the senior council. No other senior council members have to give bond or other security.

- District funds may only be expended by check, except expenditures from a petty cash account not exceeding \$100. Such petty cash expenditures must be recorded. Council funds other than petty cash may not be spent unless first budgeted for and approved by the senior council.
- The district must timely prepare and file a quarterly financial report which includes: for the quarter -- total council expenditures and receipts; a statement of the funds on hand, invested, or deposited; and total council administrative costs.
- After or during the first year of operation of the senior council, the governing body of the county, at its option, may fund in whole or in part the council budget from its own funds.

### Dependent Special Districts

This bill does not prevent a county from creating a dependent special district within the boundaries of the county for the purpose of providing preventive, developmental, treatment, and rehabilitative services for seniors. This dependent district may seek grants from state, federal, and local agencies and accept donations from public and private sources if the district has the same type duties as a seniors' services district and has a budget that requires approval through an affirmative vote of the governing body of the county or may be vetoed by the governing body of the county.

### Exercise of County Powers

The bill does not prohibit a county from exercising its powers authorized by general or special law to provide services for seniors.

### Cooperative Agreements among Senior Councils

The bill provides that two or more senior councils may enter into two types of cooperative agreements:

1. a cooperative agreement to share administrative costs, including, but not limited to, staff and office space, if a more efficient or effective operation will result. Such a cooperative agreement must include provisions on apportioning costs between the senior councils, keeping separate and distinct financial records for each senior council, and resolving any conflicts that might arise under the cooperative agreement.
2. a cooperative agreement to seek grants, to accept donations, or to jointly fund programs serving multi-county areas. Such a cooperative agreement must include provisions for the adequate accounting of separate and joint funds.

### District Dissolution

Any district created by the provisions of this bill may be dissolved by (1) a special act of the Legislature, (2) an ordinance of the county governing body, subject to the approval of the electorate, or (3) the procedures set forth in s. 189.4042, F.S.

Prior to being dissolved, the county must first obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage available to the county governing body for all county and municipal purposes as provided for under section 9, Article VII of the State Constitution.

### District Compliance with Other Statutory Requirements

The bill requires that any district created pursuant to this section must comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports required under part III of ch. 218, F.S., or any other report or documentation required by law, including the reporting requirements of ss. 189.415, 189.417, and 189.418, F.S.

### Redesignation of Part V of Chapter 125, F.S.

The bill changes the title of Part V of ch. 125, F.S., from “Children’s Services” to “Human Services” to include within the Part the purposes of the newly-created section.

**C. SECTION DIRECTORY:**

Section 1: Creates s. 125.903, F.S.; provides for the creation, governing body, powers, duties, and functions of an independent special district to provide funding for services for seniors throughout a county.

Section 2: Redesignates Part V of ch. 125, F.S.

Section 3: Amends s. 189.404(4), F.S.; adds a reference to newly-created s. 125.903, F.S.

Section 4: Provides that the act shall take effect upon becoming a law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

This bill does not appear to have a fiscal impact on state government revenues.

**2. Expenditures:**

This bill does not appear to have a fiscal impact on state government expenditures.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

This bill permits the establishment of an independent special district to provide funding for services for seniors throughout a county through the annual levy of an ad valorem tax as approved by the electors of the county. The Revenue Estimating Conference determined a similar bill filed in the 2005 Legislative session had an indeterminate fiscal impact on local government revenues. If all counties created a district and imposed the maximum 0.5 millage in ad valorem taxes, the Conference estimated the impact of that bill to have been \$621.8 to \$668.6 million in FY 2005-06.<sup>14</sup>

**2. Expenditures:**

This bill may have a fiscal impact on local government expenditures in that it permits the establishment of an independent special district which may expend funds for services for seniors throughout a county. The bill, however, provides the intent of the Legislature that the expenditure of funds by the district are not to be used as a substitute for existing resources or for resources that would otherwise be available for services for seniors.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The collection of ad valorem taxes, as well as the operation of these districts, may have a direct economic impact on the private sector.

**D. FISCAL COMMENTS:**

Should the districts determine to do so, the revenue raised by the independent special districts created by this bill may, under certain circumstances, be eligible for use as Medicaid matching funds.

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<sup>14</sup> The Revenue Estimating Conference at an Impact Conference held on February 22, 2005. Data current through December 20, 2005.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The municipal/county mandates provision in section 18 of article VII of the Florida Constitution does not appear to be applicable since the bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

This bill requires the district senior councils to make and adopt bylaws and rules, not inconsistent with federal or state laws or county ordinances, for the senior council's guidance, operation, governance, and maintenance.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

##### **Other Comments:**

Subsection (7)(a) permits counties to create dependent special districts for the purpose of providing preventive, developmental, treatment, and rehabilitative services for seniors, a power which counties seem to currently possess. Thus, it is not clear if this provision is intended to restrict the power of counties to create this type of special district in such a way that a county could only create a special district to provide preventive, developmental, treatment, and rehabilitative services for seniors if it has the duties required of senior services districts in this bill.

### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

None.